

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Case No. 14-10182-RGS

MICHAEL DONOVAN

v.

LISA MARTIN, SUPERINTENDENT
OF OLD COLONY CORRECTIONAL CENTER

ORDER ON REPORT AND RECOMMENDATION
OF THE MAGISTRATE JUDGE ON A PETITION
FOR WRIT OF HABEAS CORPUS

January 7, 2015

STEARNS, D.J.

I fully agree with Magistrate Judge Bowler that Michael Donovan's petition is time-barred. I am also of the view that in neither his petition nor in the subsequently filed Objection to the Report and Recommendation does Donovan set out a cognizable "extraordinary circumstance" warranting equitable tolling under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA).¹ Nor is there any basis for relief under

¹ AEDPA provides for a one-year period of limitations during which "a person in custody pursuant to the judgment of a State court" may apply for federal habeas relief. 28 U.S.C. § 2244(d). Absent tolling, the limitations period begins to run from "the date on which the judgment became final by

AEDPA's "severely confined" miscarriage of justice/actual innocence exception. Consequently, Magistrate Judge Bowler's Recommendation is ADOPTED and the petition is DISMISSED with prejudice. The Clerk will enter judgment for the Respondent and close the case.²

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE

the conclusion of direct review or the expiration of the time for seeking such review." *Id.* at § 2244(d)(1)(A).

² Petitioner is advised that any request for the issuance of a Certificate of Appealability pursuant to 28 U.S.C. § 2253 of this Order dismissing the petition for writ of habeas corpus is *DENIED*, the court seeing no meritorious or substantial basis supporting an appeal.